

David S. Mephram, OSB No. 930028  
Email: dsm@hs-legal.com  
Ramon Henderson, OSB No. 183579  
Email: rh@hs-legal.com  
HODGKINSON STREET, LLC  
1620 SW Taylor, Suite 350  
Portland, Oregon 97205  
Telephone: (503) 222-1143  
Fax: (503) 222-1296

Of Attorneys for defendants

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF OREGON  
MEDFORD DIVISION

NICOLE SPANGLER,

Plaintiff,

v.

UNITED PARCEL SERVICE, INC., an Ohio  
corporation; UNITED PARCEL SERVICE  
CO., a Delaware corporation; and UNITED  
PARCEL SERVICE GENERAL SERVICES  
CO., a Delaware corporation,

Defendants.

Case No.: 22-1454

**NOTICE OF REMOVAL**

[Removal from Circuit Court of the State of  
Oregon, Jackson County Case No.  
22CV27882]

DEMAND FOR JURY TRIAL

**TO THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF  
OREGON, MEDFORD DIVISION:**

PLEASE TAKE NOTICE THAT, pursuant to 28 U.S.C. § 117, 28 U.S.C. § 1332, 28 U.S.C. § 1441(a) and (b), and 28 U.S.C. § 1446, defendants United Parcel Service, Inc., United Parcel Service, Co., and United Parcel Service General Services Co. (hereinafter “defendants” or “UPS”) each hereby remove the above-captioned lawsuit from the Circuit Court of Jackson County, where it is currently pending, to the United States District Court for the District of Oregon, Medford Division. In support of this Notice, defendants respectfully state as follows:

///

///

### BACKGROUND, RELEVANT FACTS AND TIMELINESS

Plaintiff Nicole Spangler commenced this action in the Jackson County Circuit Court, where it was assigned the case number 22CV27882. *See* Compl. (Defendants' Verification of State Court Record, Exhibit A). On August 30, 2022, defendants were served with a Summons and Complaint captioned *Nicole Spangler v. United Parcel Service Inc., an Ohio corporation, United Parcel Service Co., a Delaware corporation, and United Parcel Service General Services Co., a Delaware corporation*, Jackson County Circuit Court Case No. 22CV27882. Copies of the Complaint and the Proofs of Service with Summons are attached to Defendants' Verification of State Record as Exhibits A, B, C, and D. Defendants' Verification of State Record is being filed at the same time as this pleading. On or about September 2, 2022, plaintiff filed the Affidavits of Service on these defendants. Defendants' Verification of State Record, Exhibits B, C, and D. These documents, taken together, constitute all process, pleadings and orders served on defendants in the state court action up to the present date. No further proceedings in that matter have taken place.

The Complaint contains allegations relating to defendants' purported negligence in hiring, supervising, training, inspecting, and screening former UPS employee Kenneth Ayers. *See* Exhibit A – Compl. ¶ 14. Plaintiff's Complaint also contains allegations relating to defendants' purported negligence for failing to recognize and act upon warning signs that Kenneth Ayers was mentally unwell and likely to become an "active shooter." *See* Exhibit A – Compl. ¶ 14.

This Notice of Removal is timely under 28 U.S.C. §1446(b) because it is filed within 30 days of plaintiff's purported service of defendants.

### VENUE AND JURISDICTION

Jurisdiction is proper in this court under 28 U.S.C. § 117, 1441(a), and 1446(a) because the Circuit Court of the State of Oregon for Jackson County, where the Complaint was filed, is a state court within the District of Oregon. Pursuant to 28 US § 1446, this matter is to be removed to the District Court of the United States for the District and Division within which the state

court action is pending. By filing this pleading, these defendants do not waive their right to assert any defenses or file any motions, including, but not limited to, motions based on improper, incorrect, or inconvenient venue.

This Court has original jurisdiction over the subject matter of this action under 28 U.S.C. § 1332 because (1) there is complete diversity of citizenship between plaintiff and defendants; (2) the amount in controversy exceeds \$75,000; and (3) all other requirements for removal have been satisfied.

#### Diversity of Citizenship

For a case to qualify for federal jurisdiction under 28 U.S.C. § 1332, there must be complete diversity of citizenship between the parties opposed in interest. *Kuntz v. Lamar Corp.*, 385 F.3d 1177, 1181 (9<sup>th</sup> Cir. 2004). Here, the diversity of citizenship requirement of 28 U.S.C. § 1332 has been satisfied because plaintiff brought suit on behalf of an Oregon citizen, *see* Exhibit A – Compl. ¶ 1, and defendants are, and at all relevant times have been, citizens of states other than Oregon.

Defendants are not citizens of Oregon. For purposes of diversity jurisdiction, a corporation is a citizen of its state of incorporation and the state where its principal place of business is located. 28 U.S.C. § 1332(c)(1); *see also e.g., Hertz Corp. v. Friend*, 559 U.S. 77, 78, 130 S.Ct. 1181, 175 L.Ed.2d 1029 (2010). United Parcel Service, Inc. is an Ohio corporation, *see* Exhibit A – Compl. ¶ 2, with its principal place of business in Atlanta, Georgia. *See* Exhibit A – Compl. ¶ 3. United Parcel Service Co. and United Parcel Service General Services Co. are Delaware corporations, *see* Exhibit A – Compl. ¶ 2, with their principal place of business in Atlanta, Georgia. *See* Exhibit A – Compl. ¶ 3.

There is complete diversity of the parties to this case.

#### Amount in Controversy

28 U.S.C. § 1332 requires that the amount in controversy exceeds \$75,000. The Complaint specifies that plaintiff alleges \$995,600.73 in damages. Thus, the amount in controversy, if proved, clearly exceeds \$75,000.

Other Removal Requirements

These defendants were served on August 30, 2022. *See* Defendants' Verification of State Record, Exhibits B, C, and D. This Notice of Removal, filed on September 27, 2022 is within 30 days of service of Plaintiff's Complaint and is therefore timely. *See* 28 U.S.C. § 1446(b).

As required by 28 U.S.C. § 1446(a), a copy of all process and pleadings served on defendants are attached to the Verification of State Court Record filed with this Notice.

Nothing in this Notice of Removal shall be interpreted as a waiver or relinquishment of defendants' right to assert any motion or defense. Defendants reserve the right to assert all applicable claims and defenses in response to the Complaint, including but not limited to, defenses based on lack of personal jurisdiction, improper venue, incorrect venue, inconvenient venue/forum, *non conveniens*, statute of limitations, contractual damage limitations, failure to state a claim upon which relief may be granted, or any other motions or defenses that may be available to these defendants.

No further proceedings have occurred in the Circuit Court of the State of Oregon for Jackson County as of the date of this removal.

This Notice of Removal is filed within one year of the commencement of the action.

All defendants consent to this removal.

No previous application has been made for the relief requested herein.

Counsel for defendants will file a copy of this Notice of Removal with the clerk in the Circuit Court of the State of Oregon for Jackson County and will give notice of the same to plaintiff as required by 28 U.S.C. § 1446(d).

This motion is being filed by all defendants jointly.

These defendants hereby demand a trial by jury in the above-captioned action of all issues triable by jury.

WHEREFORE, defendants pray that this action be removed from the Circuit Court for the County of Jackson and placed on the docket of the United States District Court for the District of Oregon at Medford.

DATED: September 27, 2022

HODGKINSON STREET, LLC

By: 

David S. Mephram, OSB No. 930028  
dsm@hs-legal.com  
Ramon Henderson, OSB No. 183579  
rh@hs-legal.com  
(503) 222-1143  
(503) 222-1296 (fax)  
*Of Attorneys for Defendants United Parcel  
Service, Inc., United Parcel Service, Co., and  
United Parcel Service General Services Co.*

**CERTIFICATE OF SERVICE**

I hereby certify that on the 27th day of September, 2022, I served the foregoing NOTICE OF REMOVAL, on the following:

Damian Idiart  
Benjamin Nielsen  
Lorianne Neville  
Idiart Law Group, LLC  
770 S Front St. Ste 200  
Central Point OR 97502  
Email: damian@idiartlaw.com  
email: ben@idiartlaw.com  
email: lorianne@idiartlaw.com  
*Of Attorneys For Plaintiff*

by the following indicated method(s):

☒ by **mailing** a full, true and correct copy thereof in a sealed first-class postage prepaid envelope, addressed to the foregoing attorney at the last known office address of the attorney, and deposited with the United States Post Office at Portland, Oregon on the date set forth above.

☒ by **emailing** a full, true and correct copy thereof, addressed to the foregoing attorney at the last known email address of the attorney on the date set forth above.

☐ by causing a full, true and correct copy thereof to be **hand delivered** to the attorney at the last known address listed above on the date set forth above.

☐ by sending a full, true and correct copy thereof via **overnight mail** in a sealed, prepaid envelope, addressed to the attorney as shown above on the date set forth above.

☐ by **faxing** a full, true and correct copy thereof to the attorney at the fax number shown above, which is the last-known fax number for the attorney's office on the date set forth above.

*/s/ David S. Mephram*

\_\_\_\_\_  
David S. Mephram

David S. Mephram, OSB No. 930028  
Email: dsm@hs-legal.com  
Ramon Henderson, OSB No. 183579  
Email: rh@hs-legal.com  
HODGKINSON STREET, LLC  
1620 SW Taylor, Suite 350  
Portland, Oregon 97205  
Telephone: (503) 222-1143  
Fax: (503) 222-1296

Of Attorneys for defendants

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF OREGON  
MEDFORD DIVISION

NICOLE SPANGLER,

Plaintiff,

v.

UNITED PARCEL SERVICE, INC., an Ohio  
corporation; UNITED PARCEL SERVICE  
CO., a Delaware corporation; and UNITED  
PARCEL SERVICE GENERAL SERVICES  
CO., a Delaware corporation,

Defendants.

Case No. 22-1454

[State Case No.: 22CV27882]

DEFENDANTS' VERIFICATION OF  
STATE COURT RECORD

I, Ramon Henderson, declare:

1. I am an attorney representing defendants.
2. The attached are true and complete copies of all pleadings, and other records and proceedings that were filed in the Circuit Court of the State of Oregon for Jackson County in Cause No. 22CV27882, entitled *Nicole Spangler, plaintiff, v. United Parcel Service, Inc., United Parcel Service Co., and United Parcel Service General Services Co., defendants.*
  - a. Complaint, Exhibit A.
  - b. Affidavits of Service with Summons, Exhibits B, C, and D.

///

8/19/2022 8:40 AM  
22CV27882

IN THE CIRCUIT COURT OF THE STATE OF OREGON  
FOR JACKSON COUNTY

NICOLE SPANGLER,

Plaintiff,

vs.

UNITED PARCEL SERVICE, INC., an Ohio  
corporation; UNITED PARCEL SERVICE  
CO., a Delaware corporation; and UNITED  
PARCEL SERVICE GENERAL SERVICES  
CO., a Delaware corporation,

Defendants.

Case No.

COMPLAINT

(Personal Injuries—Motor Vehicle)  
(Claim Over \$50,000.00)  
(Not Subject to Mandatory Arbitration)  
(Fee Authority 21.160(1)(c))

(Prayer Amount – \$995,600.73)

Plaintiff alleges:

1.

At all material times, Plaintiff Nicole Spangler was and is a resident of Josephine County, Oregon.

2.

At all material times, Defendants United Parcel Service, Inc. United Parcel Service Co., and United Parcel Service General Services Co. (collectively “UPS”) were and are foreign business corporations authorized to and regularly conducting business in Oregon and Jackson County.

3.

UPS is a transportation and logistics leader, operating in the U.S. and beyond. UPS is headquartered in Atlanta, Georgia and maintains facilities, shipping hubs, employees, drivers,

COMPLAINT - 1

EXHIBIT A  
PAGE 1 OF 6

IDIART LAW GROUP, LLC  
PO Box 3700, Central Point, OR 97502  
Tel: (541) 772-6969 Fax: (541) 245-0486  
Exhibit 1, page 010 of 026



1 transportation, and other workers and employees throughout Oregon and specifically within Douglas  
2 County.

3 4.

4 UPS proclaims that it is committed to industry-leading employee health, safety, and wellness  
5 programs across its workforce. UPS proclaims that it works to develop a culture of health and safety  
6 by: investing in safety training and audits; promoting wellness practices which mitigate risk; and  
7 offering benefits that keep employees safe in the workplace and beyond. UPS states that it utilizes  
8 local health and safety committees to coach employees on UPS's safety processes and are able to  
9 share best practices across work groups.

10 5.

11 UPS, through its Board of Directors and its committees, provide oversight on human capital  
12 matters through a variety of methods and processes. These include regular updates and discussion  
13 around human capital transformation efforts, technology initiatives impacting the workforce, health  
14 and safety matters, employee survey results related to culture and other matters, hiring and retention,  
15 employee demographics, labor relations and contract negotiations, compensation and benefits,  
16 succession planning and employee training initiatives.

17 6.

18 UPS was and is aware that its employees engage in active shooter events and that UPS needs  
19 to adequately screen and assess its employees to minimize such events.

20 7.

21 UPS is aware of shootings by its employees as follows: In September 2014 a recently fired UPS  
22 employee shot and killed two people at a UPS Customer Center in Birmingham, Alabama.

23 In June 2017 a UPS employee shot three co-workers at a UPS facility in San Francisco,  
24 California.

COMPLAINT - 2

EXHIBIT A  
PAGE 2 OF 10

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Exhibit 1, page 011 of 026

1 In January 2019 a former UPS employee in Logan Township, New Jersey entered the UPS  
2 facility and took two hostages, fired his handgun several times during the incident, and was later killed  
3 by the SWAT team.

4 In March 2020 a UPS employee was arrested after sending threatening text messages to UPS  
5 planning a mass shooting in Sunnyvale, California. The UPS employee had over 20,000 rounds of  
6 ammunition, high-capacity magazines, five tactical style rifles, a shot gun, three handguns, and body  
7 armor.

8 8.

9 UPS hired and employed Kenneth Ayers of Douglas County as a truck driver working out of  
10 its Roseburg, Oregon hub. Kenneth Ayer's drove a route which traveled North and South using  
11 Interstate 5. While driving for UPS and in furtherance of UPS's business, Kenneth Ayers possessed  
12 and maintained a handgun and ammunition in his assigned UPS semi-truck. At all times pertinent  
13 herein, Mr. Ayers was acting within the course and scope of his employment.

14 9.

15 UPS knew or should have known that Kenneth Ayers was mentally unstable and he exhibited  
16 his mental instability prior to May 2020. Kenneth Ayers' behavior would cause an ordinary, reasonable  
17 employer to believe that he was potentially violent or dangerous to himself and others.

18 10.

19 On or about May 12, 2020 UPS employee Kenneth Ayers fired his gun from his UPS semi-  
20 truck at and hit the vehicle of Christopher Levin Chamberlain and David Chamberlain while acting in  
21 the scope and course of his employment.

22 11.

23 On or about May 20, 2020 Plaintiff Brandon Thompson was traveling in his car on Interstate 5 in  
24 Douglas County when Kenneth Ayers, while acting within the course and scope of his employment,

COMPLAINT - 3

EXHIBIT A  
PAGE 3 OF 6

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Exhibit 1, page 012 of 026

1 fired his gun from his UPS semi-truck at Brandon nearly hitting him and causing him to fear for his  
2 life.

3 12.

4 On or about August 19, 2020 Plaintiff Nicole Spangler was traveling in her car on Interstate 5 in  
5 Jackson County when Kenneth Ayers, while acting within the course and scope of his employment,  
6 fired his gun from his UPS semi-truck at Nicole hitting her and causing great bodily injury and fear  
7 for her life.

8 13.

9 Plaintiff enjoys the legally protected interest in not being shot on a highway as a driver  
10 operating a vehicle on an Oregon public highway. See e.g. ORS 166.630(1)(a).

11 14.

12 UPS failed to use reasonable care and judgment in one or more of the following respects:

- 13 a) In failing to supervise Kenneth Ayers in the performance of his job;
- 14 b) In failing to train Kenneth Ayers;
- 15 c) In failing to inspect Kenneth Ayers for weapons at UPS's facilities;
- 16 d) In failing to recognize and act upon warning signs that Kenneth Ayers was a danger to the  
17 public;
- 18 e) In failing to recognize and act upon warning signs that Kenneth Ayers was not mentally fit for  
19 his employment;
- 20 f) In failing to adequately screen and assess its employee, Kenneth Ayers, for propensity to  
21 become an active shooter;
- 22 g) In failing to adopt or revise UPS policies for identifying UPS employees in mental health  
23 crises that may lead to harming themselves and others;
- 24

- 1 h) In failing to ensure personnel were trained and supervised in recognizing individuals  
2 demonstrating disruptive or potentially disruptive behavior.
- 3 i) In failing to inspect Kenneth Ayers's assigned UPS semi-truck for weapons;
- 4 j) In failing to prevent Kenneth Ayers from possessing a handgun and ammunition in a  
5 concealed manner, but readily accessible to him within UPS's semi-truck in violation of ORS  
6 166.250(1)(b);
- 7 k) In failing to follow UPS policies prohibiting truck drivers from carrying loaded weapons  
8 while driving;
- 9 l) In failing to adopt or follow UPS policy for employees having concealed handguns,  
10 ammunition, and weapons while on UPS facilities or while operating UPS vehicles;
- 11 m) In failing to adopt or update UPS policies for carrying loaded firearms at UPS facilities;

12 14.

13 UPS's negligence allowed Kenneth Ayers to drive its semi-truck on a public interstate and  
14 shoot members of the public, including Plaintiff.

15 15.

16 UPS had notice of, or should have been aware, that its employee Kenneth Ayers was shooting  
17 at cars on the interstate prior to Kenneth Ayers shooting at Plaintiff.

18 16.

19 Plaintiff was harmed and injured when Kenneth Ayers shot her while she was driving on  
20 Interstate 5 which caused her severe bodily injuries as well as immediate and imminent fear for her  
21 life.

22 17.

23 As a direct and foreseeable result of UPS's negligence as set forth above, Plaintiff underwent  
24 treatment for her injuries in an amount to be proved at trial, but which is presently estimated to be

COMPLAINT - 5

EXHIBIT A  
PAGE 5 OF 6

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Exhibit 1, page 014 of 026

1 \$25,600.73. Plaintiff requires future treatment and counseling in an amount to be proved at trial, but  
2 which is presently estimated to be \$20,000.00.

3 18.

4 As a result of UPS's negligence, Plaintiff sustained the following injuries and noneconomic  
5 damages, all of which were reasonably foreseeable, and some of which may be permanent:

- 6 a) Pain, discomfort, suffering, anxiety, and stress from having a bullet lodged in her arm to this  
7 day, and;  
8 b) Inconvenience and interference with usual and everyday activities.

9 All to his noneconomic damage in an amount determined by the jury to be fair and reasonable, but  
10 not to exceed the sum of \$950,000.

11 WHEREFORE, Plaintiff prays for judgment against Defendant, for damages as follows:

- 12 1. For economic damages in an amount not to exceed \$45,600.73, or such other amount to  
13 be proved at trial;  
14 2. For noneconomic damages in an amount not to exceed \$950,000.00 for each claim, or  
15 such other amount to be proved at trial;  
16 3. For costs and disbursements; and  
17 4. For such other relief as the court deems just.

18 EXECUTED August 19, 2022

IDIART LAW GROUP, LLC.

19 By: s/ Benjamin Nielsen

20 Benjamin Nielsen, OSB# 165040

21 ben@idiartlaw.com

Lorianne Neville, OSB# 151040

22 lorianne@idiartlaw.com

23 Of Attorneys for Plaintiff and Trial Attorneys  
24

COMPLAINT - 6

EXHIBIT A

PAGE 6 OF 10

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PO Box 3700, Central Point, OR 97502

Tel: (541) 772-6969 Fax: (541) 245-0486

Exhibit 1, page 015 of 026

9/2/2022 4:45 PM  
22CV27882AFFIDAVIT OF SERVICE

State of Oregon

County of Jackson

Circuit Court

Case Number: 22CV27882

Plaintiff NICOLE SPANGLER

vs.

Defendant: UNITED PARCEL SERVICES INC., et al

For:

Damian M. Idiart  
Idiart Law Group, LLC  
PO BOX 3700  
CENTRAL POINT, OR 97502

Received by MALSTROM'S PROCESS SERVING CO. on the 29th day of August, 2022 at 4:42 pm to be served on UNITED PARCEL SERVICE CO. R/A : CORPORATION SERVICE COMPANY, 1127 BROADWAY STREET NE, SUITE 310, SALEM, OR 97301

I, Bobby Chandler, being duly sworn, depose and say that on the 30th day of August, 2022 at 2:15 pm, I:

SERVED the within named UNITED PARCEL SERVICE CO. at 1127 BROADWAY STREET NE, SUITE 310, SALEM, OR 97301 by personally serving a true copy of the Summons and Complaint upon AUDREY GROOM, who is a clerk on duty in the office of the Registered Agent and who is authorized to accept service.

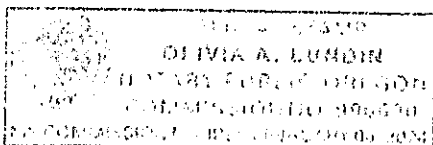
CERTIFICATION OF MAILING: I certify that on 8/31/2022 a true copy of *Summons and Complaint* along with a statement regarding the date, time and manner of service was mailed to UNITED PARCEL SERVICE CO. R/A : CORPORATION SERVICE COMPANY at 1127 BROADWAY STREET NE, SUITE 310, SALEM, OR 97301 by First Class Mail postage paid

Description of Person Served: Age: 25, Sex: F, Race/Skin Color: CAUCASIAN, Height: 5'8", Weight: 200, Hair: BROWN, Glasses N

I declare I am a resident of the State of Oregon. I am a competent person 18 years of age or older and not a party to or attorney in this proceeding. I certify that the person, firm, or corporation served is the identical one named in this action. I hereby declare that the above statement is true to the best of my knowledge and belief, and that I understand it is made for use as evidence in court and is subject to penalty for perjury

STATE OF OregonCounty of MarionSubscribed and Sworn to before me on the 31<sup>st</sup> day of AUGUST, 2022 by the affiant who is personally known to me or has provided identification.

NOTARY PUBLIC

Bobby Chandler  
Process Server

Date

MALSTROM'S PROCESS SERVING CO.  
155 Culver Lane S  
Salem, OR 97302  
(503) 585-0234Our Job Serial Number: ONE-2022003953  
Ref: 10288EXHIBIT B  
PAGE 1 OF 3

Exhibit 1, page 016 of 026

3953



Malstrom's Process Serving, Co.  
155 Culver Ln S  
Salem, Oregon 97302  
Customer Service is our Specialty!



US POSTAGE  
\$ 00.57  
First-Class  
Salem, Oregon 97302  
032A 00G1850737

United Parcel Service Co.  
R/A: Corporation Service Company  
1127 Broadway Street NE, Suite 310  
Salem, OR 97301

EXHIBIT B  
PAGE 2 OF 3

Exhibit 1, page 017 of 026

IN THE CIRCUIT COURT OF THE STATE OF OREGON  
FOR JACKSON COUNTY

NICOLE SPANGLER,

Case No.: 22CV27882

Plaintiff,

SUMMONS

vs.

UNITED PARCEL SERVICE, INC., an Ohio  
corporation, UNITED PARCEL SERVICE  
CO., a Delaware corporation; and UNITED  
PARCEL SERVICE GENERAL SERVICES,  
CO., a Delaware corporation,

Defendants.

ORIGINAL

TO: Defendant United Parcel Service CO., c/o Corporation Service Company, Reg. Agent  
1127 Broadway Street NE, Suite 310, Salem, OR 97301

IN THE NAME OF THE STATE OF OREGON: You are hereby required to appear and answer  
the Complaint filed against you in the above-captioned cause within thirty (30) days from the date of  
the service of this Summons upon you, and if you fail to so answer, for want thereof, the plaintiff(s)  
will take judgment against you for the relief prayed for in the Complaint on file herein, a true and  
correct copy of which is herewith served upon you.

NOTICE TO DEFENDANT: READ THESE PAPERS CAREFULLY!

You must "appear" in this case or the other side will win automatically. To "appear" you must  
file with the Court a legal paper called a "Motion" or "Answer." The "Motion" or "Answer" must be  
given to the Court clerk or administrator within thirty (30) days along with the required filing fee. It  
must be in the proper form and have Proof of Service on the plaintiff's attorney or, if in the plaintiff  
does not have an attorney, Proof of Service upon plaintiff.

If you have questions, you should see an attorney immediately. If you need help in finding an  
attorney, contact the Oregon State Bar's Lawyer Referral Service online at [www.oregonstatebar.org](http://www.oregonstatebar.org)  
or by calling (503) 684-3763 (in the Portland metropolitan area) or toll-free elsewhere in Oregon at  
(800) 452-7636.

IDIART LAW GROUP, LLC.,

By: s/ Benjamin D. Nielsen  
Benjamin D. Nielsen, OSB #165040  
[ben@idiartlaw.com](mailto:ben@idiartlaw.com)  
Lorianne JF Neville, OSB #151040  
[lorianne@idiartlaw.com](mailto:lorianne@idiartlaw.com)  
Of Attorneys for Plaintiff and Trial Attorneys

SUMMONS

THE IDIART LAW GROUP, LLC  
PO Box 3700, Central Point, OR 97502  
Tel: (541) 772-6969 Fax: (541) 243-0486

EXHIBIT

PAGE 3 OF 3

Exhibit 1, page 018 of 026



9/2/2022 4:45 PM  
22CV27882

# AFFIDAVIT OF SERVICE

State of Oregon

County of Jackson

Circuit Court

Case Number: 22CV27882

Plaintiff: NICOLE SPANGLER

vs

Defendant: UNITED PARCEL SERVICES INC., et al

For

Damian M. Idia  
Idia Law Group, LLC  
PO BOX 3700  
CENTRAL POINT, OR 97502

Received by MALSTROM'S PROCESS SERVING CO. on the 29th day of August, 2022 at 4:42 pm to be served on UNITED PARCEL SERVICE GENERAL SERVICES CO., R/A : CORPORATION SERVICE COMPANY, 1127 BROADWAY STREET NE, SUITE 310, SALEM, OR 97301.

I, Bobby Chandler, being duly sworn, depose and say that on the 30th day of August, 2022 at 2:15 pm, I:

SERVED the within named UNITED PARCEL SERVICE GENERAL SERVICES CO., at 1127 BROADWAY STREET NE, SUITE 310, SALEM, OR 97301 by personally serving a true copy of the Summons and Complaint upon AUDREY GROOM, who is a clerk on duty in the office of the Registered Agent and who is authorized to accept service.

CERTIFICATION OF MAILING: I certify that on 8/31/2022 a true copy of *Summons and Complaint* along with a statement regarding the date, time and manner of service was mailed to UNITED PARCEL SERVICE GENERAL SERVICES CO., R/A : CORPORATION SERVICE COMPANY at 1127 BROADWAY STREET NE, SUITE 310, SALEM, OR 97301 by First Class Mail postage paid

Description of Person Served: Age: 25, Sex: F, Race/Skin Color: CAUCASIAN, Height: 5'8", Weight: 200, Hair: BROWN, Glasses: N

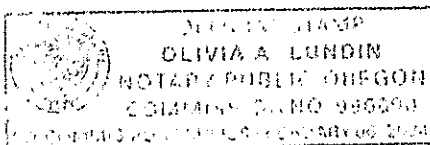
I declare I am a resident of the State of Oregon. I am a competent person 18 years of age or older and not a party to or attorney in this proceeding. I certify that the person, firm, or corporation served is the identical one named in this action. I hereby declare that the above statement is true to the best of my knowledge and belief, and that I understand it is made for use as evidence in court and is subject to penalty for perjury.

STATE OF Oregon

County of Mason

Subscribed and Sworn to before me on the 30<sup>th</sup> day of August, 2022 by the affiant who is personally known to me or has provided identification.

Olivia A. Lundin  
NOTARY PUBLIC



Bobby Chandler  
Bobby Chandler  
Process Server

Date

8/31/2022

MALSTROM'S PROCESS SERVING CO.  
155 Culver Lane S  
Salem, OR 97302  
(503) 585-0234

Our Job Serial Number: ONE-2022003955  
Ref: 10288

EXHIBIT C

PAGE 1 OF 3



Exhibit 1, page 019 of 026

3955



Malstrom's Process Serving, Co.  
155 Culver Ln S  
Salem, Oregon 97302  
Customer Service Is our Specialty!



US POSTAGE  
\$ 00.57  
First-Class  
United States Postal Service

United Parcel Service General Services Co.  
R/H: Corporation Service Company  
1127 Broadway Street, Suite 310  
Salem, OR 97301

EXHIBIT C  
PAGE 2 OF 3

Exhibit 1, page 020 of 026

ORIGINAL

IN THE CIRCUIT COURT OF THE STATE OF OREGON  
FOR JACKSON COUNTY

NICOLE SPANGLER,

Plaintiff,

Case No.: 22CV27882

SUMMONS

vs.

UNITED PARCEL SERVICE, INC., an Ohio  
corporation, UNITED PARCEL SERVICE  
CO., a Delaware corporation; and UNITED  
PARCEL SERVICE GENERAL SERVICES,  
CO., a Delaware corporation.

Defendants.

TO: Defendant United Parcel Service General Services Co., c/o Corporation Service Company,  
Reg. Agent, 1127 Broadway Street NE, Suite 310, Salem, OR 97301

IN THE NAME OF THE STATE OF OREGON: You are hereby required to appear and answer  
the Complaint filed against you in the above-captioned cause within thirty (30) days from the date of  
the service of this Summons upon you, and if you fail to so answer, for want thereof, the plaintiff(s)  
will take judgment against you for the relief prayed for in the Complaint on file herein, a true and  
correct copy of which is herewith served upon you.

NOTICE TO DEFENDANT: READ THESE PAPERS CAREFULLY!

You must "appear" in this case or the other side will win automatically. To "appear" you must  
file with the Court a legal paper called a "Motion" or "Answer." The "Motion" or "Answer" must be  
given to the Court clerk or administrator within thirty (30) days along with the required filing fee. It  
must be in the proper form and have Proof of Service on the plaintiff's attorney or, if in the plaintiff  
does not have an attorney, Proof of Service upon plaintiff.

If you have questions, you should see an attorney immediately. If you need help in finding an  
attorney, contact the Oregon State Bar's Lawyer Referral Service online at [www.oregonstatebar.org](http://www.oregonstatebar.org)  
or by calling (503) 684-3763 (in the Portland metropolitan area) or toll-free elsewhere in Oregon at  
(800) 452-7636.

IDIART LAW GROUP, LLC.,

By: s/ Benjamin D. Nielsen

Benjamin D. Nielsen, OSB #165040

[ben@idiartlaw.com](mailto:ben@idiartlaw.com)

Lorianne JF Neville, OSB #151040

[lorianne@idiartlaw.com](mailto:lorianne@idiartlaw.com)

Of Attorneys for Plaintiff and Trial Attorneys

SUMMONS

THE IDIART LAW GROUP, LLC

PO Box 3700, Central Point, OR 97502

Tel: (541) 772-6969 Fax: (541) 245-0486

EXHIBIT C

PAGE 3 OF 3

Exhibit 1, page 021 of 026

9/2/2022 4:45 PM  
22CV27882

# AFFIDAVIT OF SERVICE

State of Oregon

County of Jackson

Circuit Court

Case Number: 22CV27882

Plaintiff: NICOLE SPANGLER

vs.

Defendant: UNITED PARCEL SERVICES INC., et al

For:

Danwan M. Idiat  
Idiat Law Group, LLC  
PO BOX 3700  
CENTRAL POINT, OR 97502

Received by MALSTROM'S PROCESS SERVING CO. on the 29th day of August, 2022 at 4:42 pm to be served on UNITED PARCEL SERVICE, INC. R/A : CORPORATION SERVICE COMPANY, 1127 BROADWAY STREET NE, SUITE 310, SALEM, OR 97301.

I, Bobby Chandler, being duly sworn, depose and say that on the 30th day of August, 2022 at 2:15 pm, I:

SERVED the within named UNITED PARCEL SERVICE, INC. at 1127 BROADWAY STREET NE, SUITE 310, SALEM, OR 97301 by personally serving a true copy of the Summons and Complaint upon AUDREY GROOM, who is a clerk on duty in the office of the Registered Agent and who is authorized to accept service.

CERTIFICATION OF MAILING: I certify that on 8/31/2022 a true copy of *Summons and Complaint* along with a statement regarding the date, time and manner of service was mailed to UNITED PARCEL SERVICE, INC. R/A : CORPORATION SERVICE COMPANY at 1127 BROADWAY STREET NE, SUITE 310, SALEM, OR 97301 by First Class Mail postage paid.

Description of Person Served: Age: 25, Sex: F, Race/Skin Color: CAUCASIAN, Height: 5'8", Weight: 200, Hair: BROWN, Glasses: N

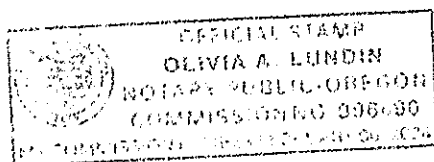
I declare I am a resident of the State of Oregon. I am a competent person 18 years of age or older and not a party to or attorney in this proceeding. I certify that the person, firm, or corporation served is the identical one named in this action. I hereby declare that the above statement is true to the best of my knowledge and belief, and that I understand it is made for use as evidence in court and is subject to penalty for perjury.

STATE OF Oregon

County of Marion

Subscribed and Sworn to before me on the 31<sup>st</sup> day of August, 2022 by the affiant who is personally known to me or has provided identification.

Olivia A. Lundin  
NOTARY PUBLIC



Bobby Chandler  
Process Server

Date

8/31/2022

MALSTROM'S PROCESS SERVING CO.  
155 Culver Lane S  
Salem, OR 97302  
(503) 585-0234

Our Job Serial Number: ONE-2022003954  
Ref: 10288



EXHIBIT P  
PAGE 1 OF 3

Exhibit 1, page 022 of 026

3954



Malstrom's Process Serving, Co.  
155 Culver Ln S  
Salem, Oregon 97302  
*Customer Service is our Specialty!*



US POSTAGE  
\$ 00.57  
First Class  
MALSTROM'S CO.  
155 CULVER LN S  
SALEM, OR 97302

*United Parcel Service, Inc.  
R/A: Corporation Service Company  
1127 Broadway Street NE, Suite 310  
Salem, OR 97301*

EXHIBIT D  
PAGE 2 OF 3

Exhibit 1, page 023 of 026

ORIGINAL

IN THE CIRCUIT COURT OF THE STATE OF OREGON  
FOR JACKSON COUNTY

NICOLE SPANGLER,

Case No.: 22CV27882

Plaintiff,

SUMMONS

vs.

UNITED PARCEL SERVICE, INC., an Ohio  
corporation. UNITED PARCEL SERVICE  
CO., a Delaware corporation; and UNITED  
PARCEL SERVICE GENERAL SERVICES.  
CO., a Delaware corporation,

Defendants.

TO: Defendant United Parcel Service, Inc., c/o Corporation Service Company, Reg. Agent  
1127 Broadway Street NE, Suite 310, Salem, OR 97301

IN THE NAME OF THE STATE OF OREGON: You are hereby required to appear and answer  
the Complaint filed against you in the above-captioned cause within thirty (30) days from the date of  
the service of this Summons upon you, and if you fail to so answer, for want thereof, the plaintiff(s)  
will take judgment against you for the relief prayed for in the Complaint on file herein, a true and  
correct copy of which is herewith served upon you.

NOTICE TO DEFENDANT: READ THESE PAPERS CAREFULLY!

You must "appear" in this case or the other side will win automatically. To "appear" you must  
file with the Court a legal paper called a "Motion" or "Answer." The "Motion" or "Answer" must be  
given to the Court clerk or administrator within thirty (30) days along with the required filing fee. It  
must be in the proper form and have Proof of Service on the plaintiff's attorney or, if in the plaintiff  
does not have an attorney, Proof of Service upon plaintiff.

If you have questions, you should see an attorney immediately. If you need help in finding an  
attorney, contact the Oregon State Bar's Lawyer Referral Service online at [www.oregonstatebar.org](http://www.oregonstatebar.org)  
or by calling (503) 684-3763 (in the Portland metropolitan area) or toll-free elsewhere in Oregon at  
(800) 452-7636.

IDIART LAW GROUP, LLC.,

By: /s/ Benjamin D. Nielsen

Benjamin D. Nielsen, OSB #165040

[ben@idiartlaw.com](mailto:ben@idiartlaw.com)

Lorianne JF Neville, OSB #151040

[lorianne@idiartlaw.com](mailto:lorianne@idiartlaw.com)

Of Attorneys for Plaintiff and Trial Attorneys

SUMMONS

THE IDIART LAW GROUP, LLC

PO Box 3700, Central Point, OR 97502

Tel: (541) 772-6969 Fax: (541) 245-0486

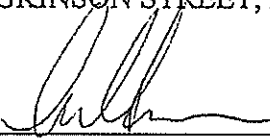
EXHIBIT 0  
PAGE 3 OF 3

Exhibit 1, page 024 of 026

I declare under penalty of perjury under the laws of the United States and State of Washington that the foregoing is true and correct.

Signed in Portland, Oregon, this 27th day of September 2022.

HODGKINSON STREET, LLC

By:   
Ramon Henderson, OSB No. 183579  
rh@hs-legal.com  
(503) 222-1143  
(503) 222-1296 (fax)  
*Of Attorneys for Defendants United Parcel  
Service, Inc., United Parcel Service, Co., and  
United Parcel Service General Services Co.*

**CERTIFICATE OF SERVICE**

I hereby certify that on the 27th day of September, 2022, I served the foregoing  
DEFENDANTS' VERIFICATION OF STATE COURT RECORD, on the following:

Damian Idiart  
Benjamin Nielsen  
Lorianne Neville  
Idiart Law Group, LLC  
770 S Front St. Ste 200  
Central Point OR 97502  
Email: damian@idiartlaw.com  
email: ben@idiartlaw.com  
email: lorianne@idiartlaw.com  
*Of Attorneys For Plaintiff*

by the following indicated method(s):

☒ by **mailing** a full, true and correct copy thereof in a sealed first-class postage prepaid envelope, addressed to the foregoing attorney at the last known office address of the attorney, and deposited with the United States Post Office at Portland, Oregon on the date set forth above.

☒ by **emailing** a full, true and correct copy thereof, addressed to the foregoing attorney at the last known email address of the attorney on the date set forth above.

☐ by causing a full, true and correct copy thereof to be **hand delivered** to the attorney at the last known address listed above on the date set forth above.

☐ by sending a full, true and correct copy thereof via **overnight mail** in a sealed, prepaid envelope, addressed to the attorney as shown above on the date set forth above.

☐ by **faxing** a full, true and correct copy thereof to the attorney at the fax number shown above, which is the last-known fax number for the attorney's office on the date set forth above.

*/s/ David S. Mephram*

\_\_\_\_\_  
David S. Mephram



IN THE CIRCUIT COURT OF THE STATE OF OREGON  
FOR THE COUNTY OF JACKSON

NICOLE SPANGLER,

Plaintiff,

v.

UNITED PARCEL SERVICE, INC., an Ohio  
corporation; UNITED PARCEL SERVICE  
CO., a Delaware corporation; and UNITED  
PARCEL SERVICE GENERAL SERVICES  
CO., a Delaware corporation,

Defendants.

Case No. 22CV27882

NOTICE TO PLAINTIFF: REMOVAL TO  
FEDERAL COURT

**TO: Nichole Spangler and her attorneys of record:**

TAKE NOTICE that United Parcel Service, Inc., United Parcel Service Co., and United Parcel Service General Services Co. (hereinafter "defendants") hereby provide notice pursuant to 28 U.S.C. § 1446(d) that they have filed a Notice of Removal with the office of the Clerk of the United States District Court for the District of Oregon, Medford Division, a copy of which is attached here as Exhibit 1.

A Notice of Removal has also been provided to the clerk of the Circuit Court for the State of Oregon, Jackson County.

///

///

///

///

///

466493

Page 1 - NOTICE TO PLAINTIFF: REMOVAL TO FEDERAL COURT

Hodgkinson  
Street  
Mephram, LLC

1620 SW Taylor  
Suite 350  
Portland, OR 97205  
(503) 222-1143  
(503) 222-1296 (fax)

1 Pursuant to 28 U.S.C. § 1331 and 28 U.S.C. § 1441(a), these proceedings are to be  
2 removed to federal court. Further, as set forth at 28 U.S.C. § 1446(d), this court shall proceed no  
3 further unless and until the case should be remanded by the United States District Court for the  
4 District of Oregon.

5 DATED: September 27, 2022

HODGKINSON STREET, LLC

/s/ David S. Mephram

By: \_\_\_\_\_

David S. Mephram, OSB No. 930028  
dsm@hs-legal.com  
Ramon Henderson, OSB No. 183579  
rh@hs-legal.com  
(503) 222-1143  
(503) 222-1296 (fax)  
*Of Attorneys for Defendants United Parcel  
Service, Inc., United Parcel Service, Co., and  
United Parcel Service General Services Co.*

JS 44 (Rev. 04/21)

## CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

## I. (a) PLAINTIFFS

Nicole Spangler

(b) County of Residence of First Listed Plaintiff Josephine, Oregon  
(EXCEPT IN U.S. PLAINTIFF CASES)(c) Attorneys (Firm Name, Address, and Telephone Number)  
Damian Idiart, Benjamin Nielsen, and Lorianne Neville,  
The Idiart Law Group, PO Box 3700, Central Point, OR  
97502, (541) 772-6969

## DEFENDANTS

United Parcel Service, Inc., an Ohio corporation; United  
Parcel Service Co., a Delaware corporation; and UnitedCounty of Residence of First Listed Defendant Hamilton, Ohio  
(IN U.S. PLAINTIFF CASES ONLY)NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF  
THE TRACT OF LAND INVOLVED.

Attorneys (If Known)

David Mephram and Ramon Henderson, Hodgkinson Street  
Mephram, 1620 SW Taylor St, Ste. 350, Portland, OR 97205,  
(503) 222-1143

## II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- ☐ 1 U.S. Government Plaintiff ☐ 3 Federal Question  
(U.S. Government Not a Party)
- ☐ 2 U.S. Government Defendant ☒ 4 Diversity  
(Indicate Citizenship of Parties in Item III)

## III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- |   |                                       |                                       |   |                            |                                       |
|---|---------------------------------------|---------------------------------------|---|----------------------------|---------------------------------------|
|   | PTF                                   | DEF                                   |   | PTF                        | DEF                                   |
| Citizen of This State                   | <input checked="" type="checkbox"/> 1 | <input type="checkbox"/> 1            | Incorporated or Principal Place of Business in This State     | <input type="checkbox"/> 4 | <input type="checkbox"/> 4            |
| Citizen of Another State                | <input type="checkbox"/> 2            | <input checked="" type="checkbox"/> 2 | Incorporated and Principal Place of Business in Another State | <input type="checkbox"/> 5 | <input checked="" type="checkbox"/> 5 |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3            | <input type="checkbox"/> 3            | Foreign Nation  | <input type="checkbox"/> 6 | <input type="checkbox"/> 6            |

## IV. NATURE OF SUIT (Place an "X" in One Box Only)

Click here for: Nature of Suit Code Descriptions.

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES	
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excludes Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veterans' Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	<b>PERSONAL INJURY</b> <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input checked="" type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury <input type="checkbox"/> 362 Personal Injury - Medical Malpractice	<b>PERSONAL INJURY</b> <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 367 Health Care/Pharmaceutical Personal Injury Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability <b>PERSONAL PROPERTY</b> <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 690 Other <b>LABOR</b> <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Management Relations <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 751 Family and Medical Leave Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Employee Retirement Income Security Act <b>IMMIGRATION</b> <input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 465 Other Immigration Actions	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 <b>INTELLECTUAL PROPERTY RIGHTS</b> <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 835 Patent - Abbreviated New Drug Application <input type="checkbox"/> 840 Trademark <input type="checkbox"/> 880 Defend Trade Secrets Act of 2016 <b>SOCIAL SECURITY</b> <input type="checkbox"/> 861 HIA (1395m) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) <b>FEDERAL TAX SUITS</b> <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609	<input type="checkbox"/> 375 False Claims Act <input type="checkbox"/> 376 Qui Tam (31 USC 3729(a)) <input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit (15 USC 1681 or 1692) <input type="checkbox"/> 485 Telephone Consumer Protection Act <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 896 Arbitration <input type="checkbox"/> 899 Administrative Procedure Act/Review or Appeal of Agency Decision <input type="checkbox"/> 950 Constitutionality of State Statutes
<b>REAL PROPERTY</b> <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	<b>CIVIL RIGHTS</b> <input type="checkbox"/> 440 Other Civil Rights <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 445 Amer. w/Disabilities - Employment <input type="checkbox"/> 446 Amer. w/Disabilities - Other <input type="checkbox"/> 448 Education	<b>PRISONER PETITIONS</b> <input type="checkbox"/> Habeas Corpus <input type="checkbox"/> 463 Alien Detainee <input type="checkbox"/> 510 Motions to Vacate Sentence <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty <input type="checkbox"/> Other: <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition <input type="checkbox"/> 560 Civil Detainee - Conditions of Confinement			

## V. ORIGIN (Place an "X" in One Box Only)

- ☐ 1 Original Proceeding ☒ 2 Removed from State Court ☐ 3 Remanded from Appellate Court ☐ 4 Reinstated or Reopened ☐ 5 Transferred from Another District (specify) ☐ 6 Multidistrict Litigation - Transfer ☐ 8 Multidistrict Litigation - Direct File

## VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):  
28 USC section 1332Brief description of cause:  
negligence

## VII. REQUESTED IN COMPLAINT:

☐ CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P.DEMAND \$  
995,600.73CHECK YES only if demanded in complaint:  
JURY DEMAND: ☒ Yes ☐ No

## VIII. RELATED CASE(S) IF ANY

(See instructions):

JUDGE

DOCKET NUMBER

22-1454

DATE

9/27/2022

SIGNATURE OF ATTORNEY OF RECORD

FOR OFFICE USE ONLY

RECEIPT #

AMOUNT

APPLYING IFP

JUDGE

MAG. JUDGE

JS 44 Reverse (Rev. 04/21)

**INSTRUCTIONS FOR ATTORNEYS COMPLETING CIVIL COVER SHEET FORM JS 44****Authority For Civil Cover Sheet**

The JS 44 civil cover sheet and the information contained herein neither replaces nor supplements the filings and service of pleading or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. Consequently, a civil cover sheet is submitted to the Clerk of Court for each civil complaint filed. The attorney filing a case should complete the form as follows:

- I.(a) **Plaintiffs-Defendants.** Enter names (last, first, middle initial) of plaintiff and defendant. If the plaintiff or defendant is a government agency, use only the full name or standard abbreviations. If the plaintiff or defendant is an official within a government agency, identify first the agency and then the official, giving both name and title.
- (b) **County of Residence.** For each civil case filed, except U.S. plaintiff cases, enter the name of the county where the first listed plaintiff resides at the time of filing. In U.S. plaintiff cases, enter the name of the county in which the first listed defendant resides at the time of filing. (NOTE: In land condemnation cases, the county of residence of the "defendant" is the location of the tract of land involved.)
- (c) **Attorneys.** Enter the firm name, address, telephone number, and attorney of record. If there are several attorneys, list them on an attachment, noting in this section "(see attachment)".
- II. **Jurisdiction.** The basis of jurisdiction is set forth under Rule 8(a), F.R.Cv.P., which requires that jurisdictions be shown in pleadings. Place an "X" in one of the boxes. If there is more than one basis of jurisdiction, precedence is given in the order shown below.  
 United States plaintiff. (1) Jurisdiction based on 28 U.S.C. 1345 and 1348. Suits by agencies and officers of the United States are included here.  
 United States defendant. (2) When the plaintiff is suing the United States, its officers or agencies, place an "X" in this box.  
 Federal question. (3) This refers to suits under 28 U.S.C. 1331, where jurisdiction arises under the Constitution of the United States, an amendment to the Constitution, an act of Congress or a treaty of the United States. In cases where the U.S. is a party, the U.S. plaintiff or defendant code takes precedence, and box 1 or 2 should be marked.  
 Diversity of citizenship. (4) This refers to suits under 28 U.S.C. 1332, where parties are citizens of different states. When Box 4 is checked, the citizenship of the different parties must be checked. (See Section III below; NOTE: federal question actions take precedence over diversity cases.)
- III. **Residence (citizenship) of Principal Parties.** This section of the JS 44 is to be completed if diversity of citizenship was indicated above. Mark this section for each principal party.
- IV. **Nature of Suit.** Place an "X" in the appropriate box. If there are multiple nature of suit codes associated with the case, pick the nature of suit code that is most applicable. Click here for: [Nature of Suit Code Descriptions](#).
- V. **Origin.** Place an "X" in one of the seven boxes.  
 Original Proceedings. (1) Cases which originate in the United States district courts.  
 Removed from State Court. (2) Proceedings initiated in state courts may be removed to the district courts under Title 28 U.S.C., Section 1441.  
 Remanded from Appellate Court. (3) Check this box for cases remanded to the district court for further action. Use the date of remand as the filing date.  
 Reinstated or Reopened. (4) Check this box for cases reinstated or reopened in the district court. Use the reopening date as the filing date.  
 Transferred from Another District. (5) For cases transferred under Title 28 U.S.C. Section 1404(a). Do not use this for within district transfers or multidistrict litigation transfers.  
 Multidistrict Litigation – Transfer. (6) Check this box when a multidistrict case is transferred into the district under authority of Title 28 U.S.C. Section 1407.  
 Multidistrict Litigation – Direct File. (8) Check this box when a multidistrict case is filed in the same district as the Master MDL docket.  
**PLEASE NOTE THAT THERE IS NOT AN ORIGIN CODE 7.** Origin Code 7 was used for historical records and is no longer relevant due to changes in statute.
- VI. **Cause of Action.** Report the civil statute directly related to the cause of action and give a brief description of the cause. Do not cite jurisdictional statutes unless diversity. Example: U.S. Civil Statute: 47 USC 553 Brief Description: Unauthorized reception of cable service.
- VII. **Requested in Complaint.** Class Action. Place an "X" in this box if you are filing a class action under Rule 23, F.R.Cv.P.  
 Demand. In this space enter the actual dollar amount being demanded or indicate other demand, such as a preliminary injunction.  
 Jury Demand. Check the appropriate box to indicate whether or not a jury is being demanded.
- VIII. **Related Cases.** This section of the JS 44 is used to reference related pending cases, if any. If there are related pending cases, insert the docket numbers and the corresponding judge names for such cases.

**Date and Attorney Signature.** Date and sign the civil cover sheet.

David S. Mephram, OSB No. 930028  
Email: dsm@hs-legal.com  
Ramon Henderson, OSB No. 183579  
Email: rh@hs-legal.com  
HODGKINSON STREET, LLC  
1620 SW Taylor, Suite 350  
Portland, Oregon 97205  
Telephone: (503) 222-1143  
Fax: (503) 222-1296

Of Attorneys for defendants

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF OREGON  
MEDFORD DIVISION

NICOLE SPANGLER,

Plaintiff,

v.

UNITED PARCEL SERVICE, INC., an Ohio  
corporation; UNITED PARCEL SERVICE  
CO., a Delaware corporation; and UNITED  
PARCEL SERVICE GENERAL SERVICES  
CO., a Delaware corporation,

Defendants.

Case No.: 22-1454

**NOTICE OF REMOVAL**

[Removal from Circuit Court of the State of  
Oregon, Jackson County Case No.  
22CV27882]

DEMAND FOR JURY TRIAL

TO THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF  
OREGON, MEDFORD DIVISION:

PLEASE TAKE NOTICE THAT, pursuant to 28 U.S.C. § 117, 28 U.S.C. § 1332, 28  
U.S.C. § 1441(a) and (b), and 28 U.S.C. § 1446, defendants United Parcel Service, Inc., United  
Parcel Service, Co., and United Parcel Service General Services Co. (hereinafter “defendants” or  
“UPS”) each herby remove the above-captioned lawsuit from the Circuit Court of Jackson  
County, where it is currently pending, to the United States District Court for the District of  
Oregon, Medford Division. In support of this Notice, defendants respectfully state as follows:

///

///

### BACKGROUND, RELEVANT FACTS AND TIMELINESS

Plaintiff Nicole Spangler commenced this action in the Jackson County Circuit Court, where it was assigned the case number 22CV27882. *See* Compl. (Defendants' Verification of State Court Record, Exhibit A). On August 30, 2022, defendants were served with a Summons and Complaint captioned *Nicole Spangler v. United Parcel Service Inc., an Ohio corporation, United Parcel Service Co., a Delaware corporation, and United Parcel Service General Services Co., a Delaware corporation*, Jackson County Circuit Court Case No. 22CV27882. Copies of the Complaint and the Proofs of Service with Summons are attached to Defendants' Verification of State Record as Exhibits A, B, C, and D. Defendants' Verification of State Record is being filed at the same time as this pleading. On or about September 2, 2022, plaintiff filed the Affidavits of Service on these defendants. Defendants' Verification of State Record, Exhibits B, C, and D. These documents, taken together, constitute all process, pleadings and orders served on defendants in the state court action up to the present date. No further proceedings in that matter have taken place.

The Complaint contains allegations relating to defendants' purported negligence in hiring, supervising, training, inspecting, and screening former UPS employee Kenneth Ayers. *See* Exhibit A – Compl. ¶ 14. Plaintiff's Complaint also contains allegations relating to defendants' purported negligence for failing to recognize and act upon warning signs that Kenneth Ayers was mentally unwell and likely to become an "active shooter." *See* Exhibit A – Compl. ¶ 14.

This Notice of Removal is timely under 28 U.S.C. §1446(b) because it is filed within 30 days of plaintiff's purported service of defendants.

### VENUE AND JURISDICTION

Jurisdiction is proper in this court under 28 U.S.C. § 117, 1441(a), and 1446(a) because the Circuit Court of the State of Oregon for Jackson County, where the Complaint was filed, is a state court within the District of Oregon. Pursuant to 28 US § 1446, this matter is to be removed to the District Court of the United States for the District and Division within which the state

court action is pending. By filing this pleading, these defendants do not waive their right to assert any defenses or file any motions, including, but not limited to, motions based on improper, incorrect, or inconvenient venue.

This Court has original jurisdiction over the subject matter of this action under 28 U.S.C. § 1332 because (1) there is complete diversity of citizenship between plaintiff and defendants; (2) the amount in controversy exceeds \$75,000; and (3) all other requirements for removal have been satisfied.

#### Diversity of Citizenship

For a case to qualify for federal jurisdiction under 28 U.S.C. § 1332, there must be complete diversity of citizenship between the parties opposed in interest. *Kuntz v. Lamar Corp.*, 385 F.3d 1177, 1181 (9<sup>th</sup> Cir. 2004). Here, the diversity of citizenship requirement of 28 U.S.C. § 1332 has been satisfied because plaintiff brought suit on behalf of an Oregon citizen, *see* Exhibit A – Compl. ¶ 1, and defendants are, and at all relevant times have been, citizens of states other than Oregon.

Defendants are not citizens of Oregon. For purposes of diversity jurisdiction, a corporation is a citizen of its state of incorporation and the state where its principal place of business is located. 28 U.S.C. § 1332(c)(1); *see also e.g., Hertz Corp. v. Friend*, 559 U.S. 77, 78, 130 S.Ct. 1181, 175 L.Ed.2d 1029 (2010). United Parcel Service, Inc. is an Ohio corporation, *see* Exhibit A – Compl. ¶ 2, with its principal place of business in Atlanta, Georgia. *See* Exhibit A – Compl. ¶ 3. United Parcel Service Co. and United Parcel Service General Services Co. are Delaware corporations, *see* Exhibit A – Compl. ¶ 2, with their principal place of business in Atlanta, Georgia. *See* Exhibit A – Compl. ¶ 3.

There is complete diversity of the parties to this case.

#### Amount in Controversy

28 U.S.C. § 1332 requires that the amount in controversy exceeds \$75,000. The Complaint specifies that plaintiff alleges \$995,600.73 in damages. Thus, the amount in controversy, if proved, clearly exceeds \$75,000.



Other Removal Requirements

These defendants were served on August 30, 2022. *See* Defendants' Verification of State Record, Exhibits B, C, and D. This Notice of Removal, filed on September 27, 2022 is within 30 days of service of Plaintiff's Complaint and is therefore timely. *See* 28 U.S.C. § 1446(b).

As required by 28 U.S.C. § 1446(a), a copy of all process and pleadings served on defendants are attached to the Verification of State Court Record filed with this Notice.

Nothing in this Notice of Removal shall be interpreted as a waiver or relinquishment of defendants' right to assert any motion or defense. Defendants reserve the right to assert all applicable claims and defenses in response to the Complaint, including but not limited to, defenses based on lack of personal jurisdiction, improper venue, incorrect venue, inconvenient venue/forum, *non conveniens*, statute of limitations, contractual damage limitations, failure to state a claim upon which relief may be granted, or any other motions or defenses that may be available to these defendants.

No further proceedings have occurred in the Circuit Court of the State of Oregon for Jackson County as of the date of this removal.

This Notice of Removal is filed within one year of the commencement of the action.

All defendants consent to this removal.

No previous application has been made for the relief requested herein.

Counsel for defendants will file a copy of this Notice of Removal with the clerk in the Circuit Court of the State of Oregon for Jackson County and will give notice of the same to plaintiff as required by 28 U.S.C. § 1446(d).

This motion is being filed by all defendants jointly.

These defendants hereby demand a trial by jury in the above-captioned action of all issues triable by jury.




WHEREFORE, defendants pray that this action be removed from the Circuit Court for the County of Jackson and placed on the docket of the United States District Court for the District of Oregon at Medford.

DATED: September 27, 2022

HODGKINSON STREET, LLC

By: \_\_\_\_\_

  
David S. Mephram, OSB No. 930028  
dsm@hs-legal.com  
Ramon Henderson, OSB No. 183579  
rh@hs-legal.com  
(503) 222-1143  
(503) 222-1296 (fax)  
*Of Attorneys for Defendants United Parcel  
Service, Inc., United Parcel Service, Co., and  
United Parcel Service General Services Co.*

CERTIFICATE OF SERVICE

I hereby certify that on the 27th day of September, 2022, I served the foregoing NOTICE OF REMOVAL, on the following:

Damian Idiart  
Benjamin Nielsen  
Lorianne Neville  
Idiart Law Group, LLC  
770 S Front St. Ste 200  
Central Point OR 97502  
Email: damian@idiartlaw.com  
email: ben@idiartlaw.com  
email: lorianne@idiartlaw.com  
*Of Attorneys For Plaintiff*

by the following indicated method(s):

☒ by **mailing** a full, true and correct copy thereof in a sealed first-class postage prepaid envelope, addressed to the foregoing attorney at the last known office address of the attorney, and deposited with the United States Post Office at Portland, Oregon on the date set forth above.

☒ by **emailing** a full, true and correct copy thereof, addressed to the foregoing attorney at the last known email address of the attorney on the date set forth above.

☐ by causing a full, true and correct copy thereof to be **hand delivered** to the attorney at the last known address listed above on the date set forth above.

☐ by sending a full, true and correct copy thereof via **overnight mail** in a sealed, prepaid envelope, addressed to the attorney as shown above on the date set forth above.

☐ by **faxing** a full, true and correct copy thereof to the attorney at the fax number shown above, which is the last-known fax number for the attorney's office on the date set forth above.

*/s/ David S. Mephram*

\_\_\_\_\_  
David S. Mephram

David S. Mephram, OSB No. 930028  
Email: dsm@hs-legal.com  
Ramon Henderson, OSB No. 183579  
Email: rh@hs-legal.com  
HODGKINSON STREET, LLC  
1620 SW Taylor, Suite 350  
Portland, Oregon 97205  
Telephone: (503) 222-1143  
Fax: (503) 222-1296

Of Attorneys for defendants

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF OREGON  
MEDFORD DIVISION

NICOLE SPANGLER,

Plaintiff,

v.

UNITED PARCEL SERVICE, INC., an Ohio  
corporation; UNITED PARCEL SERVICE  
CO., a Delaware corporation; and UNITED  
PARCEL SERVICE GENERAL SERVICES  
CO., a Delaware corporation,

Defendants.

Case No. 22-1454

[State Case No.: 22CV27882]

DEFENDANTS' VERIFICATION OF  
STATE COURT RECORD

I, Ramon Henderson, declare:

1. I am an attorney representing defendants.
2. The attached are true and complete copies of all pleadings, and other records and proceedings that were filed in the Circuit Court of the State of Oregon for Jackson County in Cause No. 22CV27882, entitled *Nicole Spangler, plaintiff, v. United Parcel Service, Inc., United Parcel Service Co., and United Parcel Service General Services Co., defendants.*
  - a. Complaint, Exhibit A.
  - b. Affidavits of Service with Summons, Exhibits B, C, and D.

///

8/19/2022 8:40 AM  
22CV27882

IN THE CIRCUIT COURT OF THE STATE OF OREGON  
FOR JACKSON COUNTY

NICOLE SPANGLER,

Plaintiff,

vs.

UNITED PARCEL SERVICE, INC., an Ohio  
corporation; UNITED PARCEL SERVICE  
CO., a Delaware corporation; and UNITED  
PARCEL SERVICE GENERAL SERVICES  
CO., a Delaware corporation,

Defendants.

Case No.

COMPLAINT

(Personal Injuries—Motor Vehicle)  
(Claim Over \$50,000.00)  
(Not Subject to Mandatory Arbitration)  
(Fee Authority 21.160(1)(c))

(Prayer Amount – \$995,600.73)

Plaintiff alleges:

1.

At all material times, Plaintiff Nicole Spangler was and is a resident of Josephine County, Oregon.

2.

At all material times, Defendants United Parcel Service, Inc. United Parcel Service Co., and United Parcel Service General Services Co. (collectively "UPS") were and are foreign business corporations authorized to and regularly conducting business in Oregon and Jackson County.

3.

UPS is a transportation and logistics leader, operating in the U.S. and beyond. UPS is headquartered in Atlanta, Georgia and maintains facilities, shipping hubs, employees, drivers,

COMPLAINT - 1

EXHIBIT A  
PAGE 1 OF 6

IDIART LAW GROUP, LLC  
PO Box 3700, Central Point, OR 97502  
Tel: (541) 772-6969 Fax: (541) 245-0486  
Exhibit 1, page 010 of 026

1 transportation, and other workers and employees throughout Oregon and specifically within Douglas  
2 County.

3 4.

4 UPS proclaims that it is committed to industry-leading employee health, safety, and wellness  
5 programs across its workforce. UPS proclaims that it works to develop a culture of health and safety  
6 by: investing in safety training and audits; promoting wellness practices which mitigate risk; and  
7 offering benefits that keep employees safe in the workplace and beyond. UPS states that it utilizes  
8 local health and safety committees to coach employees on UPS's safety processes and are able to  
9 share best practices across work groups.

10 5.

11 UPS, through its Board of Directors and its committees, provide oversight on human capital  
12 matters through a variety of methods and processes. These include regular updates and discussion  
13 around human capital transformation efforts, technology initiatives impacting the workforce, health  
14 and safety matters, employee survey results related to culture and other matters, hiring and retention,  
15 employee demographics, labor relations and contract negotiations, compensation and benefits,  
16 succession planning and employee training initiatives.

17 6.

18 UPS was and is aware that its employees engage in active shooter events and that UPS needs  
19 to adequately screen and assess its employees to minimize such events.

20 7.

21 UPS is aware of shootings by its employees as follows: In September 2014 a recently fired UPS  
22 employee shot and killed two people at a UPS Customer Center in Birmingham, Alabama.

23 In June 2017 a UPS employee shot three co-workers at a UPS facility in San Francisco,  
24 California.

COMPLAINT - 2

EXHIBIT A  
PAGE 2 OF 6

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Exhibit 1, page 011 of 026

1 In January 2019 a former UPS employee in Logan Township, New Jersey entered the UPS  
2 facility and took two hostages, fired his handgun several times during the incident, and was later killed  
3 by the SWAT team.

4 In March 2020 a UPS employee was arrested after sending threatening text messages to UPS  
5 planning a mass shooting in Sunnyvale, California. The UPS employee had over 20,000 rounds of  
6 ammunition, high-capacity magazines, five tactical style rifles, a shot gun, three handguns, and body  
7 armor.

8 8.

9 UPS hired and employed Kenneth Ayers of Douglas County as a truck driver working out of  
10 its Roseburg, Oregon hub. Kenneth Ayer's drove a route which traveled North and South using  
11 Interstate 5. While driving for UPS and in furtherance of UPS's business, Kenneth Ayers possessed  
12 and maintained a handgun and ammunition in his assigned UPS semi-truck. At all times pertinent  
13 herein, Mr. Ayers was acting within the course and scope of his employment.

14 9.

15 UPS knew or should have known that Kenneth Ayers was mentally unstable and he exhibited  
16 his mental instability prior to May 2020. Kenneth Ayers' behavior would cause an ordinary, reasonable  
17 employer to believe that he was potentially violent or dangerous to himself and others.

18 10.

19 On or about May 12, 2020 UPS employee Kenneth Ayers fired his gun from his UPS semi-  
20 truck at and hit the vehicle of Christopher Levin Chamberlain and David Chamberlain while acting in  
21 the scope and course of his employment.

22 11.

23 On or about May 20, 2020 Plaintiff Brandon Thompson was traveling in his car on Interstate 5 in  
24 Douglas County when Kenneth Ayers, while acting within the course and scope of his employment,

COMPLAINT - 3

EXHIBIT A  
PAGE 3 OF 6

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Exhibit 1, page 012 of 026

1 fired his gun from his UPS semi-truck at Brandon nearly hitting him and causing him to fear for his  
2 life.

3 12.

4 On or about August 19, 2020 Plaintiff Nicole Spangler was traveling in her car on Interstate 5 in  
5 Jackson County when Kenneth Ayers, while acting within the course and scope of his employment,  
6 fired his gun from his UPS semi-truck at Nicole hitting her and causing great bodily injury and fear  
7 for her life.

8 13.

9 Plaintiff enjoys the legally protected interest in not being shot on a highway as a driver  
10 operating a vehicle on an Oregon public highway. See e.g. ORS 166.630(1)(a).

11 14.

12 UPS failed to use reasonable care and judgment in one or more of the following respects:

- 13 a) In failing to supervise Kenneth Ayers in the performance of his job;  
14 b) In failing to train Kenneth Ayers;  
15 c) In failing to inspect Kenneth Ayers for weapons at UPS's facilities;  
16 d) In failing to recognize and act upon warning signs that Kenneth Ayers was a danger to the  
17 public;  
18 e) In failing to recognize and act upon warning signs that Kenneth Ayers was not mentally fit for  
19 his employment;  
20 f) In failing to adequately screen and assess its employee, Kenneth Ayers, for propensity to  
21 become an active shooter;  
22 g) In failing to adopt or revise UPS policies for identifying UPS employees in mental health  
23 crises that may lead to harming themselves and others;  
24

COMPLAINT - 4

EXHIBIT A  
PAGE 4 OF 6

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Exhibit 1, page 013 of 026

- 1 h) In failing to ensure personnel were trained and supervised in recognizing individuals  
2 demonstrating disruptive or potentially disruptive behavior.
- 3 i) In failing to inspect Kenneth Ayers's assigned UPS semi-truck for weapons;
- 4 j) In failing to prevent Kenneth Ayers from possessing a handgun and ammunition in a  
5 concealed manner, but readily accessible to him within UPS's semi-truck in violation of ORS  
6 166.250(1)(b);
- 7 k) In failing to follow UPS policies prohibiting truck drivers from carrying loaded weapons  
8 while driving;
- 9 l) In failing to adopt or follow UPS policy for employees having concealed handguns,  
10 ammunition, and weapons while on UPS facilities or while operating UPS vehicles;
- 11 m) In failing to adopt or update UPS policies for carrying loaded firearms at UPS facilities;

12 14.

13 UPS's negligence allowed Kenneth Ayers to drive its semi-truck on a public interstate and  
14 shoot members of the public, including Plaintiff.

15 15.

16 UPS had notice of, or should have been aware, that its employee Kenneth Ayers was shooting  
17 at cars on the interstate prior to Kenneth Ayers shooting at Plaintiff.

18 16.

19 Plaintiff was harmed and injured when Kenneth Ayers shot her while she was driving on  
20 Interstate 5 which caused her severe bodily injuries as well as immediate and imminent fear for her  
21 life.

22 17.

23 As a direct and foreseeable result of UPS's negligence as set forth above, Plaintiff underwent  
24 treatment for her injuries in an amount to be proved at trial, but which is presently estimated to be

COMPLAINT - 5

EXHIBIT A  
PAGE 5 OF 11

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Exhibit 1, page 014 of 026



1 \$25,600.73. Plaintiff requires future treatment and counseling in an amount to be proved at trial, but  
2 which is presently estimated to be \$20,000.00.

3 18.

4 As a result of UPS's negligence, Plaintiff sustained the following injuries and noneconomic  
5 damages, all of which were reasonably foreseeable, and some of which may be permanent:

- 6 a) Pain, discomfort, suffering, anxiety, and stress from having a bullet lodged in her arm to this  
7 day, and;  
8 b) Inconvenience and interference with usual and everyday activities.

9 All to his noneconomic damage in an amount determined by the jury to be fair and reasonable, but  
10 not to exceed the sum of \$950,000.

11 WHEREFORE, Plaintiff prays for judgment against Defendant, for damages as follows:

- 12 1. For economic damages in an amount not to exceed \$45,600.73, or such other amount to  
13 be proved at trial;  
14 2. For noneconomic damages in an amount not to exceed \$950,000.00 for each claim, or  
15 such other amount to be proved at trial;  
16 3. For costs and disbursements; and  
17 4. For such other relief as the court deems just.

18 EXECUTED August 19, 2022

IDIART LAW GROUP, LLC.

19 By: s/ Benjamin Nielsen

20 Benjamin Nielsen, OSB# 165040

21 ben@idiartlaw.com

Lorianne Neville, OSB# 151040

22 lorianne@idiartlaw.com

23 Of Attorneys for Plaintiff and Trial Attorneys  
24

COMPLAINT - 6

EXHIBIT

A  
PAGE 6 OF 11

IDIART LAW GROUP, LLC

PO Box 3700, Central Point, OR 97502

Tel: (541) 772-6969 Fax: (541) 245-0486

Exhibit 1, page 015 of 026

9/2/2022 4:45 PM  
22CV27882

AFFIDAVIT OF SERVICE

State of Oregon

County of Jackson

Circuit Court

Case Number: 22CV27882

Plaintiff NICOLE SPANGLER

vs.

Defendant: UNITED PARCEL SERVICES INC., et al

For:

Danlan M. Idiart

Idiart Law Group, LLC

PO BOX 3700

CENTRAL POINT, OR 97502

Received by MALSTROM'S PROCESS SERVING CO. on the 29th day of August, 2022 at 4:42 pm to be served on UNITED PARCEL SERVICE CO. R/A : CORPORATION SERVICE COMPANY, 1127 BROADWAY STREET NE, SUITE 310, SALEM, OR 97301

I, Bobby Chandler, being duly sworn, depose and say that on the 30th day of August, 2022 at 2:15 pm, I:

SERVED the within named UNITED PARCEL SERVICE CO. at 1127 BROADWAY STREET NE, SUITE 310, SALEM, OR 97301 by personally serving a true copy of the Summons and Complaint upon AUDREY GROOM, who is a clerk on duty in the office of the Registered Agent and who is authorized to accept service.

CERTIFICATION OF MAILING: I certify that on 8/31/2022 a true copy of *Summons and Complaint* along with a statement regarding the date, time and manner of service was mailed to UNITED PARCEL SERVICE CO. R/A : CORPORATION SERVICE COMPANY at 1127 BROADWAY STREET NE, SUITE 310, SALEM, OR 97301 by First Class Mail postage paid

Description of Person Served: Age: 25, Sex: F, Race/Skin Color: CAUCASIAN, Height: 5'8", Weight: 200, Hair: BROWN, Glasses: N

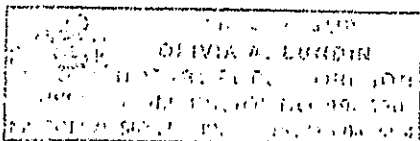
I declare I am a resident of the State of Oregon. I am a competent person 18 years of age or older and not a party to or attorney in this proceeding. I certify that the person, firm, or corporation served is the identical one named in this action. I hereby declare that the above statement is true to the best of my knowledge and belief, and that I understand it is made for use as evidence in court and is subject to penalty for perjury

STATE OF Oregon

County of Marion

Subscribed and Sworn to before me on the 31<sup>st</sup> day of August, 2022 by the affiant who is personally known to me or has provided identification.

NOTARY PUBLIC



Bobby Chandler  
Bobby Chandler  
Process Server  
8/31/2022  
Date

MALSTROM'S PROCESS SERVING CO.  
155 Culver Lane S  
Salem, OR 97302  
(503) 585-0234

Our Job Serial Number ONE-2022003953  
Ref: 10288

EXHIBIT B  
PAGE 1 OF 3



Exhibit 1, page 016 of 026

3953



Malstrom's Process Serving, Co.  
155 Culver Ln S  
Salmon, Oregon 97302  
*Customer Service is our Specialty!*



USPS MAIL  
\$ 00.57  
First Class  
Permit No. 9730  
0507 0501550747

*United Parcel Service Co.  
R/A: Corporation Service Company  
1127 Broadway Street NE, Suite 310  
Salmon, OR 97301*

EXHIBIT B  
PAGE 2 OF 3

Exhibit 1, page 017 of 026

IN THE CIRCUIT COURT OF THE STATE OF OREGON  
FOR JACKSON COUNTY

NICOLE SPANGLER,

Case No.: 22CV27882

Plaintiff,

SUMMONS

vs.

UNITED PARCEL SERVICE, INC., an Ohio  
corporation, UNITED PARCEL SERVICE  
CO., a Delaware corporation; and UNITED  
PARCEL SERVICE GENERAL SERVICES.  
CO., a Delaware corporation,

Defendants.

ORIGINAL

TO: Defendant United Parcel Service CO., c/o Corporation Service Company, Reg. Agent  
1127 Broadway Street NE, Suite 310, Salem, OR 97301

IN THE NAME OF THE STATE OF OREGON: You are hereby required to appear and answer  
the Complaint filed against you in the above-captioned cause within thirty (30) days from the date of  
the service of this Summons upon you, and if you fail to so answer, for want thereof, the plaintiff(s)  
will take judgment against you for the relief prayed for in the Complaint on file herein, a true and  
correct copy of which is herewith served upon you.

NOTICE TO DEFENDANT: READ THESE PAPERS CAREFULLY!

You must "appear" in this case or the other side will win automatically. To "appear" you must  
file with the Court a legal paper called a "Motion" or "Answer." The "Motion" or "Answer" must be  
given to the Court clerk or administrator within thirty (30) days along with the required filing fee. It  
must be in the proper form and have Proof of Service on the plaintiff's attorney or, if in the plaintiff  
does not have an attorney, Proof of Service upon plaintiff.

If you have questions, you should see an attorney immediately. If you need help in finding an  
attorney, contact the Oregon State Bar's Lawyer Referral Service online at [www.oregonstatebar.org](http://www.oregonstatebar.org)  
or by calling (503) 684-3763 (in the Portland metropolitan area) or toll-free elsewhere in Oregon at  
(800) 452-7636.

IDIART LAW GROUP, LLC.

By: s/ Benjamin D. Nielsen

Benjamin D. Nielsen, OSB #165040

[ben@idiartlaw.com](mailto:ben@idiartlaw.com)

Lorianne JF Neville, OSB #151040

[lorianne@idiartlaw.com](mailto:lorianne@idiartlaw.com)

Of Attorneys for Plaintiff and Trial Attorneys

SUMMONS

THE IDIART LAW GROUP, LLC

PO Box 3700, Central Point, OR 97502

Tel: (541) 772-6969 Fax: (541) 245-0486

EXHIBIT 6

PAGE 3 OF 3

Exhibit 1, page 018 of 026

9/2/2022 4:45 PM  
22CV27882

AFFIDAVIT OF SERVICE

State of Oregon

County of Jackson

Circuit Court

Case Number: 22CV27882

Plaintiff: NICOLE SPANGLER

vs

Defendant: UNITED PARCEL SERVICES INC., et al

For

Damian M. Idiart

Idiart Law Group, LLC

PO BOX 3700

CENTRAL POINT, OR 97502

Received by MALSTROM'S PROCESS SERVING CO. on the 29th day of August, 2022 at 4:42 pm to be served on UNITED PARCEL SERVICE GENERAL SERVICES CO., R/A : CORPORATION SERVICE COMPANY, 1127 BROADWAY STREET NE, SUITE 310, SALEM, OR 97301.

I, Bobby Chandler, being duly sworn, depose and say that on the 30th day of August, 2022 at 2:15 pm, I:

SERVED the within named UNITED PARCEL SERVICE GENERAL SERVICES CO., at 1127 BROADWAY STREET NE, SUITE 310, SALEM, OR 97301 by personally serving a true copy of the Summons and Complaint upon AUDREY GROOM, who is a clerk on duty in the office of the Registered Agent and who is authorized to accept service.

CERTIFICATION OF MAILING: I certify that on 8/31/2022 a true copy of *Summons and Complaint* along with a statement regarding the date, time and manner of service was mailed to UNITED PARCEL SERVICE GENERAL SERVICES CO., R/A : CORPORATION SERVICE COMPANY at 1127 BROADWAY STREET NE, SUITE 310, SALEM, OR 97301 by First Class Mail postage paid

Description of Person Served: Age: 25, Sex: F, Race/Skin Color: CAUCASIAN, Height: 5'8", Weight: 200, Hair: BROWN, Glasses: N

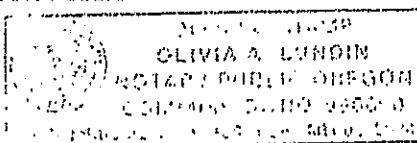
I declare I am a resident of the State of Oregon. I am a competent person 18 years of age or older and not a party to or attorney in this proceeding. I certify that the person, firm, or corporation served is the identical one named in this action. I hereby declare that the above statement is true to the best of my knowledge and belief, and that I understand it is made for use as evidence in court and is subject to penalty for perjury.

STATE OF Oregon

County of Mason

Subscribed and Sworn to before me on the 31<sup>st</sup> day of August, 2022 by the affiant who is personally known to me or has provided identification.

NOTARY PUBLIC



Bobby Chandler  
Bobby Chandler  
Process Server

Date

8/31/2022

MALSTROM'S PROCESS SERVING CO.  
155 Culver Lane S  
Salem, OR 97302  
(503) 585-0234

Our Job Serial Number: ONE-2022003955  
Ref: 10288

EXHIBIT C

PAGE 1 OF 3



Exhibit 1, page 019 of 026

3955



Malstrom's Process Serving, Co.  
155 Culver Ln S  
Salem, Oregon 97302  
*Customer Service is our Specialty!*



US POSTAGE  
\$ 00.57  
First-Class  
Permit No. 100  
Salem, OR

*United Parcel Service General Services Co.  
Rt 1: Corporation Service Company  
1127 Broadway Street, Suite 310  
Salem, OR 97301*

EXHIBIT C  
PAGE 2 OF 3

Exhibit 1, page 020 of 026

ORIGINAL

IN THE CIRCUIT COURT OF THE STATE OF OREGON  
FOR JACKSON COUNTY

NICOLE SPANGLER,

Case No.: 22CV27882

Plaintiff,

SUMMONS

vs.

UNITED PARCEL SERVICE, INC., an Ohio  
corporation, UNITED PARCEL SERVICE  
CO., a Delaware corporation; and UNITED  
PARCEL SERVICE GENERAL SERVICES,  
CO., a Delaware corporation.

Defendants.

TO: Defendant United Parcel Service General Services Co., c/o Corporation Service Company,  
Reg. Agent, 1127 Broadway Street NE, Suite 310, Salem, OR 97301

IN THE NAME OF THE STATE OF OREGON: You are hereby required to appear and answer  
the Complaint filed against you in the above-captioned cause within thirty (30) days from the date of  
the service of this Summons upon you, and if you fail to so answer, for want thereof, the plaintiff(s)  
will take judgment against you for the relief prayed for in the Complaint on file herein, a true and  
correct copy of which is herewith served upon you.

NOTICE TO DEFENDANT: READ THESE PAPERS CAREFULLY!

You must "appear" in this case or the other side will win automatically. To "appear" you must  
file with the Court a legal paper called a "Motion" or "Answer." The "Motion" or "Answer" must be  
given to the Court clerk or administrator within thirty (30) days along with the required filing fee. It  
must be in the proper form and have Proof of Service on the plaintiff's attorney or, if in the plaintiff  
does not have an attorney, Proof of Service upon plaintiff.

If you have questions, you should see an attorney immediately. If you need help in finding an  
attorney, contact the Oregon State Bar's Lawyer Referral Service online at [www.oregonstatebar.org](http://www.oregonstatebar.org)  
or by calling (503) 684-3763 (in the Portland metropolitan area) or toll-free elsewhere in Oregon at  
(800) 452-7636.

IDIART LAW GROUP, L.L.C.,

By: s/ Benjamin D. Nielsen

Benjamin D. Nielsen, OSB #165040

[ben@idiartlaw.com](mailto:ben@idiartlaw.com)

Lorianne JF Neville, OSB #151040

[lorianne@idiartlaw.com](mailto:lorianne@idiartlaw.com)

Of Attorneys for Plaintiff and Trial Attorneys

SUMMONS

THE IDIART LAW GROUP, L.L.C.

P.O. Box 3700, Central Point, OR 97502

Tel: (541) 772-6969 Fax: (541) 245-0486

EXHIBIT C

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9/2/2022 4:45 PM  
22CV27882

2

# AFFIDAVIT OF SERVICE

State of Oregon

County of Jackson

Circuit Court

Case Number: 22CV27882

Plaintiff: NICOLE SPANGLER

vs.

Defendant: UNITED PARCEL SERVICES INC., et al

For:

Damian M. Idiant

Idiant Law Group, LLC

PO BOX 3700

CENTRAL POINT, OR 97502

Received by MALSTROM'S PROCESS SERVING CO. on the 29th day of August, 2022 at 4:42 pm to be served on UNITED PARCEL SERVICE, INC. R/A : CORPORATION SERVICE COMPANY, 1127 BROADWAY STREET NE, SUITE 310, SALEM, OR 97301.

I, Bobby Chandler, being duly sworn, depose and say that on the 30th day of August, 2022 at 2:15 pm, I:

SERVED the within named UNITED PARCEL SERVICE, INC. at 1127 BROADWAY STREET NE, SUITE 310, SALEM, OR 97301 by personally serving a true copy of the Summons and Complaint upon AUDREY GROOM, who is a clerk on duty in the office of the Registered Agent and who is authorized to accept service.

CERTIFICATION OF MAILING: I certify that on 8/31/2022 a true copy of *Summons and Complaint* along with a statement regarding the date, time and manner of service was mailed to UNITED PARCEL SERVICE, INC. R/A : CORPORATION SERVICE COMPANY at 1127 BROADWAY STREET NE, SUITE 310, SALEM, OR 97301 by First Class Mail postage paid.

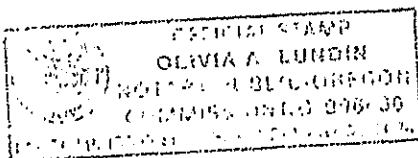
Description of Person Served: Age: 25, Sex: F, Race/Skin Color: CAUCASIAN, Height: 5'8", Weight: 200, Hair: BROWN, Glasses: N


I declare I am a resident of the State of Oregon. I am a competent person 18 years of age or older and not a party to or attorney in this proceeding. I certify that the person, firm, or corporation served is the identical one named in this action. I hereby declare that the above statement is true to the best of my knowledge and belief, and that I understand it is made for use as evidence in court and is subject to penalty for perjury.

STATE OF OregonCounty of Multnomah

Subscribed and Sworn to before me on the 31<sup>st</sup> day of August, 2022 by the affiant who is personally known to me or has provided identification.

  
NOTARY PUBLIC



  
Bobby Chandler  
Process Server

Date 8/31/2022

MALSTROM'S PROCESS SERVING CO.  
155 Culver Lane S  
Salem, OR 97302  
(503) 585-0234

Our Job Serial Number: ONE-2022003954  
Ref: 10288

EXHIBIT P  
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3954



Maistrom's Process Serving, Co.  
155 Culver Ln S  
Salem, Oregon 97302  
Customer Service is our Specialty!



USPS07AGL  
MP \$ 00.57  
First Class  
Maistrom's Process Serving Co.  
155 Culver Ln S  
Salem, OR 97302

United Parcel Service, Inc.  
R/A: Corporation Service Company  
1127 Broadway Street NE, Suite 310  
Salem, OR 97301

EXHIBIT D  
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ORIGINAL

IN THE CIRCUIT COURT OF THE STATE OF OREGON  
FOR JACKSON COUNTY

NICOLE SPANGLER,

Case No.: 22CV27882

Plaintiff,

SUMMONS

vs.

UNITED PARCEL SERVICE, INC., an Ohio  
corporation. UNITED PARCEL SERVICE  
CO., a Delaware corporation; and UNITED  
PARCEL SERVICE GENERAL SERVICES,  
CO., a Delaware corporation.

Defendants.

TO: Defendant United Parcel Service, Inc., c/o Corporation Service Company, Reg. Agent  
1127 Broadway Street NE, Suite 310, Salem, OR 97301

IN THE NAME OF THE STATE OF OREGON: You are hereby required to appear and answer  
the Complaint filed against you in the above-captioned cause within thirty (30) days from the date of  
the service of this Summons upon you, and if you fail to so answer, for want thereof, the plaintiff(s)  
will take judgment against you for the relief prayed for in the Complaint on file herein, a true and  
correct copy of which is herewith served upon you.

NOTICE TO DEFENDANT: READ THESE PAPERS CAREFULLY!

You must "appear" in this case or the other side will win automatically. To "appear" you must  
file with the Court a legal paper called a "Motion" or "Answer." The "Motion" or "Answer" must be  
given to the Court clerk or administrator within thirty (30) days along with the required filing fee. It  
must be in the proper form and have Proof of Service on the plaintiff's attorney or, if in the plaintiff  
does not have an attorney, Proof of Service upon plaintiff.

If you have questions, you should see an attorney immediately. If you need help in finding an  
attorney, contact the Oregon State Bar's Lawyer Referral Service online at [www.oregonstatebar.org](http://www.oregonstatebar.org)  
or by calling (503) 684-3763 (in the Portland metropolitan area) or toll-free elsewhere in Oregon at  
(800) 452-7636.

IDIART LAW GROUP, LLC.,

By: s/ Benjamin D. Nielsen

Benjamin D. Nielsen, OSB #165040

[ben@idiartlaw.com](mailto:ben@idiartlaw.com)

Lorianne JF Neville, OSB #151040

[lorianne@idiartlaw.com](mailto:lorianne@idiartlaw.com)

Of Attorneys for Plaintiff and Trial Attorneys

SUMMONS

THE IDIART LAW GROUP, LLC

PO Box 3700, Central Point, OR 97502

Tel: (541) 772-6969 Fax: (541) 245-0486

EXHIBIT 0  
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I declare under penalty of perjury under the laws of the United States and State of Washington that the foregoing is true and correct.

Signed in Portland, Oregon, this 27th day of September 2022.

HODGKINSON STREET, LLC

By: 

Ramon Henderson, OSB No. 183579

rh@hs-legal.com

(503) 222-1143

(503) 222-1296 (fax)

*Of Attorneys for Defendants United Parcel  
Service, Inc., United Parcel Service, Co., and  
United Parcel Service General Services Co.*

CERTIFICATE OF SERVICE

I hereby certify that on the 27th day of September, 2022, I served the foregoing  
DEFENDANTS' VERIFICATION OF STATE COURT RECORD, on the following:

Damian Idiart  
Benjamin Nielsen  
Lorianne Neville  
Idiart Law Group, LLC  
770 S Front St. Ste 200  
Central Point OR 97502  
Email: damian@idiartlaw.com  
email: ben@idiartlaw.com  
email: lorianne@idiartlaw.com  
*Of Attorneys For Plaintiff*

by the following indicated method(s):

☒ by **mailing** a full, true and correct copy thereof in a sealed first-class postage prepaid envelope, addressed to the foregoing attorney at the last known office address of the attorney, and deposited with the United States Post Office at Portland, Oregon on the date set forth above.

☒ by **emailing** a full, true and correct copy thereof, addressed to the foregoing attorney at the last known email address of the attorney on the date set forth above.

☐ by causing a full, true and correct copy thereof to be **hand delivered** to the attorney at the last known address listed above on the date set forth above.

☐ by sending a full, true and correct copy thereof via **overnight mail** in a sealed, prepaid envelope, addressed to the attorney as shown above on the date set forth above.

☐ by **faxing** a full, true and correct copy thereof to the attorney at the fax number shown above, which is the last-known fax number for the attorney's office on the date set forth above.

*/s/ David S. Mephram*

\_\_\_\_\_  
David S. Mephram

**CERTIFICATE OF SERVICE**

I hereby certify that on the 27th day of September, 2022, I served the foregoing NOTICE  
TO PLAINTIFF: REMOVAL TO FEDERAL COURT, on the following:

Damian Idiart  
Benjamin Nielsen  
Lorianne Neville  
Idiart Law Group, LLC  
770 S Front St. Ste 200  
Central Point OR 97502  
Email: damian@idiartlaw.com  
email: ben@idiartlaw.com  
email: lorianne@idiartlaw.com  
*Of Attorneys For Plaintiff*

by the following indicated method(s):

☒ by **mailing** a full, true and correct copy thereof in a sealed first-class postage prepaid envelope, addressed to the foregoing attorney at the last known office address of the attorney, and deposited with the United States Post Office at Portland, Oregon on the date set forth above.

☒ by **emailing** a full, true and correct copy thereof, addressed to the foregoing attorney at the last known email address of the attorney on the date set forth above.

☐ by causing a full, true and correct copy thereof to be **hand delivered** to the attorney at the last known address listed above on the date set forth above.

☐ by sending a full, true and correct copy thereof via **overnight mail** in a sealed, prepaid envelope, addressed to the attorney as shown above on the date set forth above.

☐ by **faxing** a full, true and correct copy thereof to the attorney at the fax number shown above, which is the last-known fax number for the attorney's office on the date set forth above.

*/s/ David S. Mephram*

\_\_\_\_\_  
David S. Mephram